MOMENTS THAT MATTER

A guide to Family Investment Companies

hcr

harrison clark rickerbys solicitors

Passing assets on to the next generation can be achieved with the use of trusts, but they are not the only option. One alternative is a Family Investment Company which can be set up to hold, manage and protect your assets for future generations.

What is a Family Investment Company?

A Family Investment Company (FIC) is commonly set up as a private limited company which manages investments as opposed to trading. It usually manages equity or property portfolios and is fast becoming a popular alternative to the use of trusts, particularly for entrepreneurs and individuals already used to company structures. FICs are generally used by parents or grandparents to accumulate wealth in a tax efficient manner and to help with succession planning.

How is a FIC set up?

A FIC is generally used to accumulate, manage, and pass on family assets to the next generation and is set up by the founder (one or both parents or grandparents). As founder, you become a shareholder and transfer assets or cash into the FIC (usually by way of a loan). Other family members are then gifted shares at a nominal value. Different shares can have different rights attached to them, such as voting or non-voting rights, and this will need to be specified in the FIC's articles of association.

When setting up the FIC you will also need to decide who the directors will be. It is advisable to have at least two directors in case one dies or is incapacitated.

What are the benefits of a FIC?

The main benefits of a FIC include having the ability to protect and pass on your assets in an often more tax efficient manner than would be the case outside of the FIC.

The FIC's profits will be taxed at corporation tax rates (currently 19% but due to increase to 25% from 1 April 2023 affecting companies with profits of £250,000 or over). If the FIC's assets are invested in equity portfolios, company to company dividends are generally tax free.

For FICs containing property portfolios, loan interest is tax deductible. Rental income from properties is also taxed at a preferential rate for companies compared to individuals and any assets sold are liable for corporation tax rather than capital gains tax. If individuals take profits from the FIC as dividends, tax is liable at the shareholder's personal marginal rates.

Transferring assets, such as property, to a FIC as opposed to making a loan is less common due to the resulting tax consequences (Inheritance tax (IHT) chargeable lifetime transfer and potential capital gains tax), but it can be advantageous if there are capital losses pregnant on the assets.

An element of control would be retained by the founder through the articles of association and shareholders' agreement which would set out your role and responsibilities. Other family members may also be brought in as shareholders with different rights and roles within the FIC.

The initial loan you have made to create the FIC can potentially be repaid from profits tax free, although this may be challenged by HMRC. Alternatively, part of the loan could be transferred to other shareholders with interest charged at a commercial rate.

Any additional shareholders should be added as soon as possible following the creation of the FIC and before significant increases in the value of the assets within it.

Gifts of shares to family members will be exempt from IHT if you survive for seven years after the gift. A family trust can also be included as a shareholder. Gifting shares to a trust is chargeable for IHT but if the value of the shares gifted is below the personal nil rate band, this would not trigger a charge to tax. The band resets after seven years so each parent could theoretically gift up to £325k every seven years without being liable for IHT.

A significant benefit of using a FIC is that it can be used to protect assets. Shares can be restricted so that they must stay in the family. The shareholder agreement can be used to state what should happen to assets if a shareholder dies or gets divorced.

Payment of dividends from the FIC to family members will be charged at dividend rates. This can be beneficial when paid to children over 18 years, making use of their basic rate band.

A key benefit of using a FIC is to protect assets as the shareholder agreement will state what should happen to assets if a shareholder dies or gets divorced.

What else do I need to consider?

FICs are not risk free and should be a longer-term strategy as part of a wider tax planning exercise. They should be reviewed regularly and implemented as early as possible to maximise the benefits. Shares will need to have been gifted more than seven years before your death for IHT purposes.

The flexibility it offers makes the FIC an increasingly popular alternative, particularly with entrepreneurs, but you do need to bear in mind the reporting requirements, such as the requirement to file an annual confirmation statement and company accounts.

HMRC has recently carried out an exercise to review the use of FICs but concluded that they appear to be used as planning tools rather than tax avoidance schemes. This does not mean that there will not be future scrutiny of FICs as a tool but setting up and managing your FIC correctly is a very important starting point.

FICs should be a longer-term strategy as part of a wider tax planning exercise. They should be reviewed regularly and implemented as early as possible to maximise the benefits.

A FIC is generally used to accumulate, manage and pass on family assets to the next generation.

We can offer a fixed price package to provide some certainty around the costs of set up which includes:

1. Assessing your personal circumstances – is a FIC right for you and your family?
2. Drafting all paperwork. This will be completed by both Private Client and Corporate lawyers.
3. Liaising with your tax advisor/accountant to ensure that the FIC fits your wider tax objectives.
4. Keeping you up to date with any legislation changes which might affect the company and your goals.

A FIC is a complex vehicle. Specialist private client and corporate advisors like HCR can work alongside your tax advisors to create the desired outcome for you, helping you to manage and protect your wealth for future generations.

We have supported numerous clients in setting up FICs, particularly after they have exited a business and want to manage the assets this has freed up.

For more information about setting up a FIC, please contact a member of the HCR Private Client team.

Glossary

Estate planning	Managing and passing on assets, now and after your death, for the benefit of you and your future beneficiaries
Family Investment Company	An increasingly popular alternative to trusts, a FIC is often set up as a private limited company which manages investments as opposed to trading
Founder	The individual creating the FIC, usually a parent or grandparent who is looking for a way to manage and pass on their assets
Shareholder	Other family members who will benefit from the assets held by the FIC
Inheritance Tax (IHT)	Tax which is liable on estates over a certain value and in certain circumstances

harrison clark rickerbys solicitors

Birmingham	Cambridge	Cardiff	Central England	Cheltenham
T: 0121 454 0739	**T:** 01223 461 155	**T:** 02922 749 200	**T:** 01604 233 233	**T:** 01242 224 422
F: 0121 455 7211	**F:** 01223 316 511	**F:** 02922 749 201	**F:** 01604 627 941	**F:** 01242 518 428
Hereford	London – International HQ	Thames Valley	Worcester	Wye Valley
T: 01432 349 670	**T:** 020 7489 6320	**T:** 0118 911 1206	**T:** 01905 612 001	**T:** 01989 562 377
F: 01432 349 660	**F:** 020 7681 1261	**F:** 0118 900 7874	**F:** 01905 744 899	**F:** 01989 561 400

www.hcrlaw.com | @HCRlaw

INVESTORS IN PEOPLE We invest in people Standard

Lexcel Legal Practice Quality Mark Law Society Accredited

The LEGAL 500 UNITED KINGDOM

CHAMBERS AND PARTNERS